

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**AMERICAN FEDERATION OF STATE
COUNTY AND MUNICIPAL
EMPLOYEES, DISTRICT COUNCIL 47
HEALTH AND WELFARE FUND, *et al.***

Plaintiff,

v.

**ORTHO-MCNEIL-JANSSEN
PHARMACEUTICALS, INC., *et al.***

Defendants.

**CIVIL ACTION
No. 08-cv-5904**

ORDER

AND NOW, this 21st day of December 2010, upon consideration of Defendants' Motions to Compel Plaintiffs to Produce Documents to Defendants' First Set of Requests for Production and to Provide Complete Answers to Defendants' First Set of Interrogatories [doc. no. 40] and to Extend Deadlines [doc. no. 41], Plaintiffs' Responses in opposition thereto [doc. nos. 43 & 44], and Defendants' Replies [doc. nos. 48 & 50], it is hereby **ORDERED** that Defendants' Motions are **GRANTED IN PART** and **DENIED IN PART** as follows:

1. Defendants' motion to compel non-privileged documents promised by Plaintiffs in response to Defendants' Interrogatories Nos. 3,¹ 14,² 16³ and Defendants' Production Requests

¹ Pls.' Resp. to Defs.' First Set of Interrogs. at 5.

² Id. at 7-8.

³ Defs.' Mem. in Supp. of Mot. to Compel, Ex. H (Letter from F. Trammel to J. Lewers, Nov. 19, 2010) at 2 (committing that Plaintiffs will continue to produce documents responsive to this interrogatory).

Nos. 6⁴ and 45⁵ is **GRANTED** to the extent that Plaintiffs have not yet produced the documents. Plaintiffs shall produce these documents to Defendants on or before **January 18, 2011**.

2. Defendants motion to compel responses to production requests seeking personally identifiable health information of Plaintiffs' plan participants, communications with individual plan participants regarding the recall, use or other disposition of recalled patches by individual plan participants, methodologies to show whether individual plan participants used the recalled fentanyl patches, or any other documents specific to individual plan participants use or disposition of recalled fentanyl patches, is **DENIED without prejudice, with leave to renew** should the information become relevant to this litigation and, where implicated, the privacy protections of state and federal law determined to be inapplicable.

3. To avoid unnecessary delays in this matter, the Parties shall immediately meet and confer in good faith to discuss the scheduling of all remaining depositions of fact and expert witnesses, as well as purportedly deficient production or interrogatory responses unresolved by this Order. No party shall unilaterally notice a deposition or cancel a previously scheduled deposition without first so conferring. The Court advises the Parties that if additional discovery disputes arise, the Court may require them to submit their discovery processes to a special master, with costs to be borne by the Parties.

4.. The schedule in the above-captioned matter is amended as follows:

a. Except as otherwise provided in this Order, all relevant, non-privileged documents in the possession, custody or control of the Parties and responsive to the opposing parties' document requests or interrogatories shall be produced on or before **January 18, 2011**.

⁴ Pls.' Resp. to Defs.' First Set of Req. for Produc. of Docs. at 4.

⁵ Id. at 13.

b. All fact discovery on the issue of class certification, including depositions of fact witnesses, shall be completed on or before **February 15, 2011**.

c. Plaintiff's motion for class certification shall be filed on or before **March 10, 2011**; Plaintiff's expert report for any expert relied upon in support of its motion for class certification shall be filed on or before **March 10, 2011**.

d. Defendants' brief in opposition to class certification, if any, shall be filed on or before **April 20, 2011**; Defendants' rebuttal expert report for any expert relied upon in opposition to Plaintiff's motion for class certification shall be filed on or before **April 20, 2011**.

e. All expert discovery in support or in opposition to Plaintiff's motion for class certification shall be completed on or before **June 9, 2011**.

f. To the extent the Court's calendar permits, the Court will conduct a hearing on Plaintiff's motion for class certification in **July 2011**.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe
CYNTHIA M. RUFÉ, J.